DRAFT
ENVIRONMENTAL ASSESSMENT

NEWLAN CREEK RESERVOIR
FISHING ACCESS SITE
PROPOSED PHASE II DEVELOPMENT

February 2012

Montana Fish, Wildlife & Parks

Newlan Creek Reservoir Fishing Access Site
Proposed Phase II Development
Draft Environmental Assessment
MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Type of proposed state action:

In 1997, Montana Fish, Wildlife & Parks (MFWP) entered into an agreement with the Meagher County Newlan Creek Water District to manage 135 acres along Newlan Reservoir for the purpose of providing public recreational use of Newlan Reservoir and establishing a fishing access site (FAS), known as Newlan Creek Reservoir FAS (Appendix F). MFWP proposed to develop Newlan Creek Reservoir FAS in two phases. Phase I was completed in 2001 and included construction of an entrance road and parking area; access roads through Camp Loops A and B; boat launch facilities; and three latrines. MFWP proposes to develop Phase II, which would include: improvement of gravel access roads and development of designated campsites throughout Camp Loops A and B and the areas known as Big Point and Little Point; construction of a designated gravel parking area on the area known as Headwaters, construction of a gravel boat access on Little Point, relocation of a vault latrine from the existing parking area to Big Point, locating another vault latrine at Little Point or Headwaters and additional regulatory and informational signs. Phase II development of Newlan Creek Reservoir FAS would improve recreational opportunities by allowing additional opportunities for camping, boating and fishing. The proposed development reduces public safety hazards and degradation to fish and wildlife habitats due to pioneered roads and campsites, as well as improved sanitation by relocating and adding latrines.

2. Agency authority for the proposed action:

The 1977 Montana Legislature enacted Section 87-1-605, Montana Code Annotated (MCA), which directs MFWP to acquire, develop and operate a system of fishing accesses. The legislature earmarked a funding account to ensure that the fishing access site program would be implemented. Sections 23-1-105, 23-1-106, 15-1-122, 61-3-321, and 87-1-303, MCA, authorize the collection fees and charges for the use of state park system units and fishing access sites, and contain rule-making authority for their use, occupancy, and protection. Furthermore, Section 23-1-110, MCA, and Administrative Rules of Montana (ARM) 12.2.433 guides public involvement and comment for the improvements at state parks and fishing access sites, which this document provides.

ARM 12.8.602 requires MFWP to consider the wishes of the public, the capacity of the site for development, environmental impacts, long-range maintenance, protection of natural features and impacts on tourism as these elements relate to development or improvement to fishing access sites or state parks. This document will illuminate the facets of the proposed project in relation to this rule. See Appendix A for HB 495 qualification.

3. Name of project:

Newlan Creek Reservoir Fishing Access Site Proposed Phase II Development

4. Project sponsor:

Montana Fish, Wildlife & Parks, Region 4
4600 Giant Springs Road
Great Falls, MT 59405
(406) 454-5840

5. Anticipated Schedule:

Estimated Public Comment Period: April 2012
Estimated Decision Notice: May 2012
Estimated Construction/Commencement Date: Fall 2012 / Spring 2013
Estimated Completion Date: December 2013
Current Status of Project Design (% complete): 25%

6. Location:

Newlan Creek Reservoir FAS is located on Newlan Creek Reservoir, 10 miles north of White Sulphur Springs and 1 mile west of Highway 89 along Newlan Creek Road in Meagher County in Sections 11 and 12, Township 10 North, Range 6 East. Figures 1, 2, 3 and 4 provide more detailed information regarding the proposed project's location.

Figure 1. Newlan Creek Reservoir FAS General Location

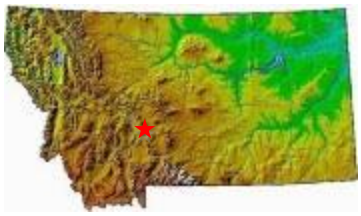
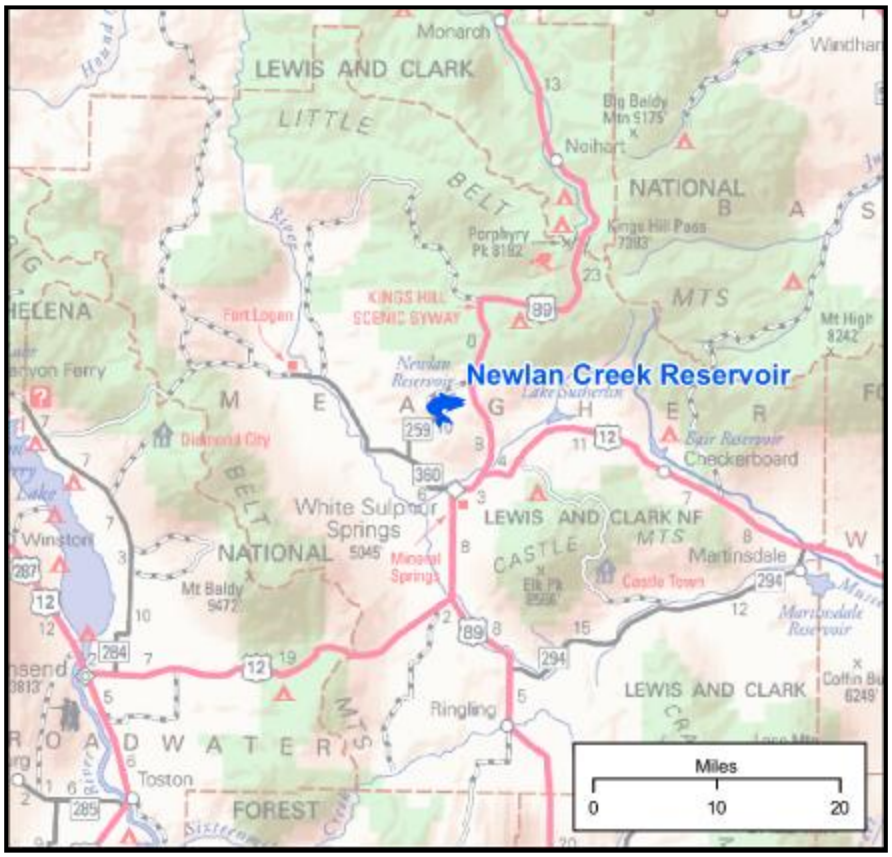


Figure 2. Newlan Creek Reservoir FAS Highway Map Location



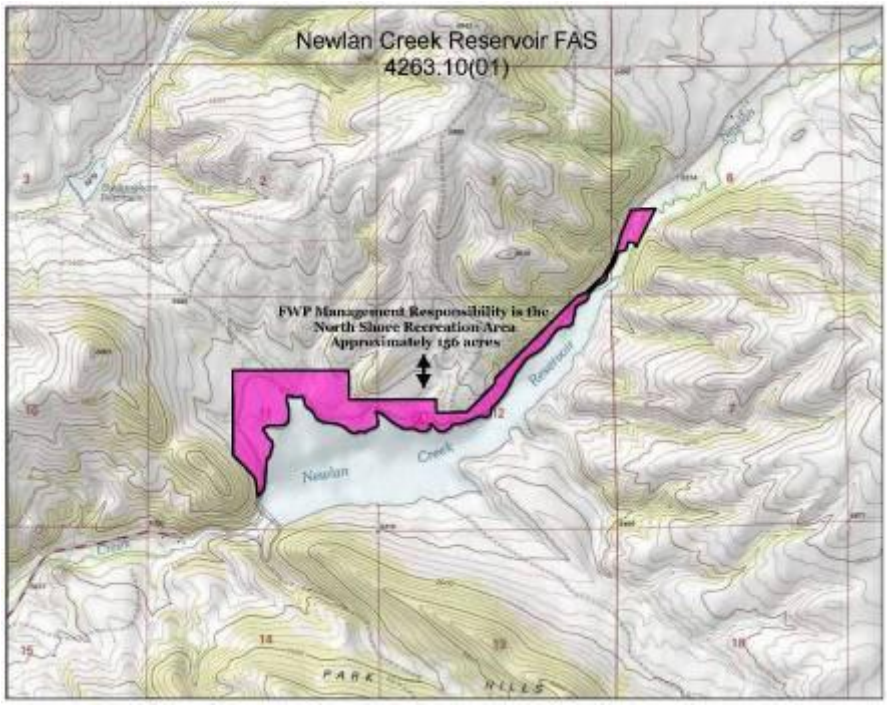
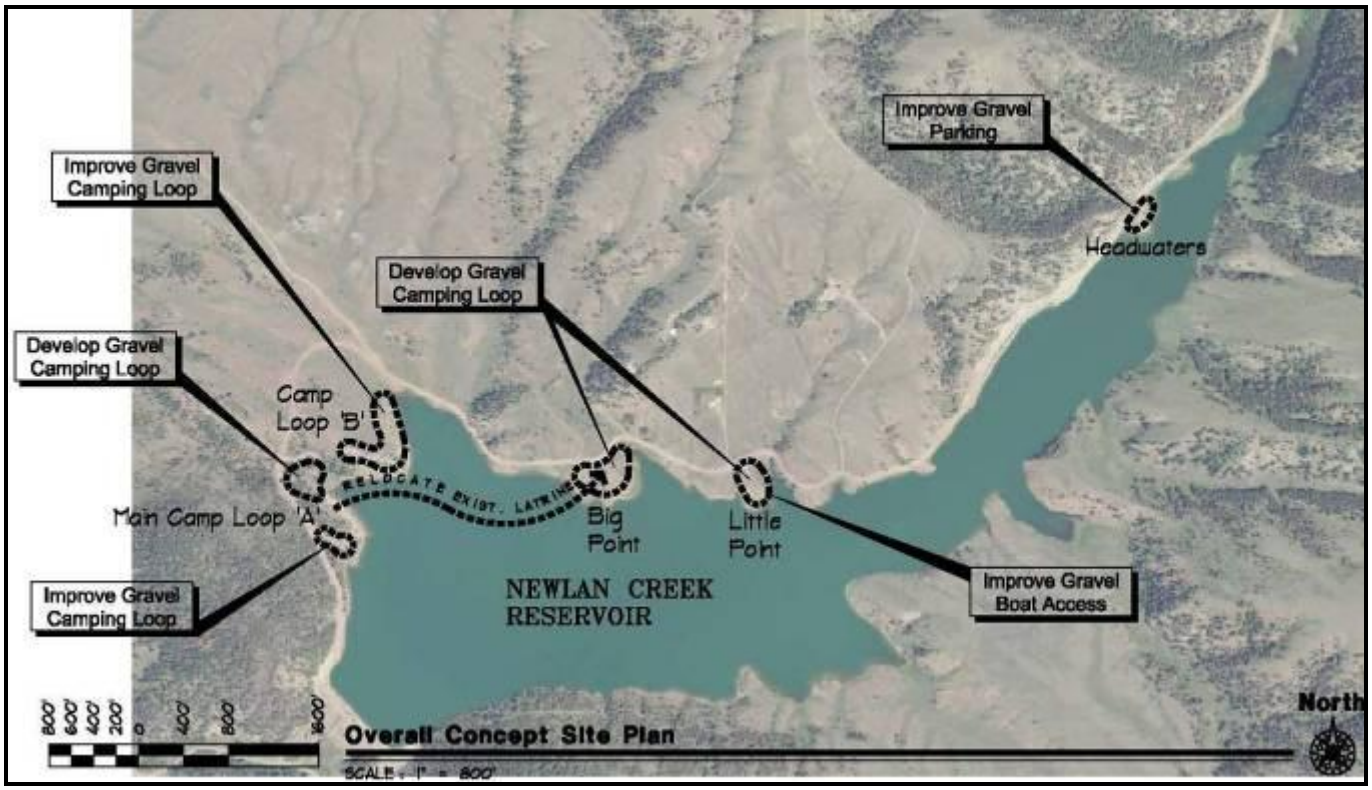


Figure 4. Newlan Creek Reservoir FAS Proposed Overall Phase II Concept Plan.



7. Project size:

	Acres		**Acres**

(a) Developed:		(d) Floodplain (100 year)	0
Residential	0		
Industrial	0	(e) Productive:	
		Irrigated cropland	0
(b) Open Space/	25	Dry cropland	0
Woodlands/Recreation		Forestry	0
(c) Wetlands/Riparian	0	Rangeland	0
Areas		Other	0

8. Local, State or Federal agencies with overlapping or additional jurisdiction:

(a) Permits:

Agency Name	Permit
Montana Fish, Wildlife & Parks (MFWP)	124 MT Stream Protection Act
Montana Dept. of Environmental Quality	318 Short Term Water Quality Standard for Turbidity
	Stormwater Discharge Permit
US Army Corps of Engineers	404 Federal Clean Water Act

(b) Funding:

Montana FWP Site Protection Fund	$30,000
Federal Wallop-Breaux Fund	$90,000
	$120,000

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Agency Name	Type of Responsibility
Natural Heritage Program	Species of Concern (Appendix B)
State Historic Preservation Office	Cultural Clearance (Appendix E)
Meagher County Weed District	Weed Management Coordination and Approval of Weed Management Plan
Meagher County Newlan Creek Water District	Landowner

9. Narrative summary of the proposed action:

The 22-mile long Newlan Creek begins in the Little Belt Mountains and flows through narrow valleys to Newlan Creek Reservoir then continues through agricultural valleys until it empties into the Smith River approximately 6 miles northwest of White Sulphur Springs. In 1977, Newlan Creek Dam was constructed, creating Newlan Creek Reservoir, to provide irrigation water for the Meagher County Newlan Creek Water District (Water District) and to provide water-based recreational opportunities to White Sulphur Springs and the greater Great Falls, Helena, Butte, Livingston, and Bozeman areas.

Due to limited recreational opportunities near White Sulphur Springs for boating and camping, Newlan Creek Reservoir receives heavy recreational use. As a result, the Water District that owns the reservoir and surrounding property entered into a 25-year Agreement with MFWP in 1997 to manage the site for public recreational use and to establish a FAS. As part of the Agreement, the Water District retains the right to maintain, operate, and control the reservoir levels from the 327 surface acres (14,030 acre-feet) at full pool to the minimum recreation pool of 75 surface acres, and a volume 990 acre-feet, which includes 550 acre-feet of storage for recreation and 440 acre-feet for sediment control. Water levels can fluctuate and are influenced by the efficiency of the delivery systems, irrigation needs,

temperatures, precipitation, time of year, and water rights.

Newlan Creek Reservoir FAS is the only FAS on Newlan Creek. The closest FAS managed by MFWP to Newlan Creek Reservoir FAS is Fort Logan FAS, also known as Smith River Access FAS) on the Smith River (river mile 90), approximately 20 miles away. In addition, Camp Baker FAS, managed as part of Smith River State Park is located on the Smith River at river mile 82. The proposed development of Newlan Creek Reservoir FAS would provide additional recreational opportunities to the White Sulphur Springs area and the greater Great Falls, Helena, Bozeman, Livingston, and Butte areas.

Newlan Creek and Newlan Creek Reservoir offer fishing opportunities in an underused, remote, and scenic area of Montana. Common game fish found in Newlan Creek include brook trout, rainbow trout, and mountain whitefish. Burbot are also present. According to surveys by MFWP, the number of angler days per year from 2001 to 2007 on the 22-mile stretch of Newlan Creek averaged 323, with a low of 109 in 2001 and a high of 585 in 2005. The state ranking for this stream ranged from 363 to 893 during this same period. Newlan Creek is open to fishing from the third Saturday in May to November 30.

MFWP has stocked Newlan Creek Reservoir with rainbow trout, Yellowstone cutthroat trout, westslope cutthroat trout, brown trout, and burbot. In addition to these species, other game species found in the reservoir include brook trout and mountain whitefish. The native longnose sucker is also abundant. According to surveys by MFWP, the number of angler days per year from 2001 to 2009 at Newlan Creek Reservoir averaged 7,523, with a low of 5,236 in 2001 to high of 9,321 in 2009. The state ranking for the reservoir ranged from 67 to 102 for this same period. Newlan Creek Reservoir is open to fishing year round. The improvement of access roads and the addition of designated campsites at Newlan Creek Reservoir could potentially lead to increased angler use. Periodic, typically annual monitoring of fish populations in the reservoir by MFWP occurs to obtain management information necessary to provide the best fishery possible.

Vegetation types found on Newlan Creek Reservoir FAS, as identified by the Montana Natural Heritage Program, include Big Sagebrush Steppe, Rocky Mountain Montane, Foothill, and Valley Grassland, and Rocky Mountain Montane Douglas-Fir Forest and Woodland. Common plants found in the Big Sagebrush Steppe type, which covers the largest portion of the FAS, include big sagebrush, rubber rabbitbrush, western wheatgrass, blue grama, Sandberg's bluegrass, threadleaf sedge, Hood's phlox, and prickly pear. Cheatgrass and Japanese brome are also common in these areas. Common plants found in the Rocky Mountain Montane, Foothill, and Valley Grassland type include buebunch wheatgrass, Idaho fescue, rough fescue, prairie junegrass, Wood's rose, snowberry, yarrow, and fringed sagewort. Common plants found in the Rocky Mountain Montane Douglas-fir Forest and Woodland type, include Douglas-fir, Rocky Mountain juniper, occasional limber pine and ponderosa pine, Wood's rose, snowberry, bluebunch wheatgrass, and Idaho fescue. Rocky Mountain juniper is the dominant tree species around camp loop A. Common introduced species found on the property include smooth brome, cheatgrass, Japanese brome, spotted knapweed, leafy spurge, houndstongue, and Canada thistle. The most common noxious weeds found on the property are spotted knapweed, houndstongue, and leafy spurge, with smaller concentrations of Canada thistle. MFWP will continue implement the MFWP Statewide Integrated Noxious Weed Management Plan to control noxious weeds on the property.

Common wildlife species whose habitat distribution overlaps Newlan Creek Reservoir FAS include white-tailed deer, mule deer, pronghorn, elk, mountain lion, bobcat, badger, red fox,

golden eagle, red-tail hawk, great-horned owl, and waterfowl. On occasion, black bear, bald eagle, and river otter are found in the area.

The Canada lynx is the only species in the project area that has been listed as threatened by the U.S. Fish and Wildlife Service, with the last observation in 1997. The Yellowstone cutthroat trout and wolverine, Species of Concern, was last reported in the vicinity of the project area in 2003. The vascular plant divide bladderpod, a Species of Concern, was observed within .5 mile of the project area in 1987. The project is unlikely to have any impact on Canada lynx, Yellowstone cutthroat trout, wolverine, and divide bladderpod since the project area does not provide habitat for these species and the FAS has been highly disturbed for years by public recreational use and fluctuating water levels from irrigation use. Westslope cutthroat trout, a Species of Concern, is maintained in Newlan Creek Reservoir by annual plantings.

Under the Agreement between the Water District and MFWP, MFWP agreed to develop the site in two phases. In 2001, MFWP completed construction of the facilities in Phase I, including an entrance road, day-use parking area, access roads through Camp Loops A and B, boat launching facilities, turn-around area, three vault latrines, and informational and regulatory signs (Figure 4). Pioneered access roads, parking areas, and campsites are currently located along Camp Loops A and B, Big Point, Little Point, and Headwaters, which are creating public safety hazards, erosion, sedimentation of Newlan Creek Reservoir, and degradation of plant communities and wildlife habitats (Figure 4).

Summer visitation is high, with annual visitation over 5,000 site users. Boaters have utilized an undeveloped site near camp loop B and on the north shore of the reservoir to park, launch, and camp randomly. One vault latrine is located in camp loop B and none are located at Big Point, Little Point, or Headwaters (Figure 4). Pioneered, two-track roads and multiple pioneered rock fire-rings are found near Camp Loops A and B, Big Point, Little Point, and Headwaters(Figure 4). Proposed phase II development of the FAS would address these problems and would include improved access roads through Camp Loops A and B, approximately 13 designated campsites in a redesigned Camp Loop A, designated campsites in a redesigned Camp Loop B, and designated access roads and parking areas at Big Point, Little Point, and Headwaters (Figure 4). Proposed construction would begin during spring or summer 2012 and would be completed by December 2012, contingent upon approval of the proposed action and available funding.

The property would be managed under existing MFWP public use regulations. Management of the proposed development includes routine maintenance, control of vehicles, firearms and other accepted MFWP recreation area management policies. Protection of the natural resources, the health and safety of visitors, and consideration of neighboring properties would all be considered and incorporated into any development plans proposed for this site. Improvements to access roads and development of designated campsites would enhance visitor use of this site as well as provide long-term protection of the resources not impacted by the development footprint. Newlan Creek Reservoir and the FAS are open year-round for day-use, fishing, and camping. Shotgun hunting for waterfowl, upland birds, and deer are allowed at the FAS during the hunting seasons. Rifle hunting is not prohibited and the site is closed to off road use of ATV’s and motorized dirt bikes.

Phase II development of Newlan Creek Reservoir FAS would improve recreational opportunities by allowing additional opportunities for camping, boating, fishing, hunting, picnicking, and wildlife viewing. In addition, public safety hazards would be reduced and

degradation to fish and wildlife habitats and resource damage due to pioneered roads and campsites would be mitigated.

PART II. ENVIRONMENTAL REVIEW

1. **Description and analysis of reasonable alternatives:**

Alternative A: No Action

Newlan Creek Reservoir receives unrestricted use by anglers, campers, and off-road vehicles, which has caused environmental damage, including soil erosion, sedimentation of the reservoir, and degradation of riparian and upland plant communities and wildlife habitats. If no action is taken and Phase II of the Master Plan for Newlan Creek Reservoir FAS is not developed with improved access roads and developed campsites, unrestricted use and environmental damage of the site would continue. In addition, if Phase II is not implemented, MFWP would not be in compliance with the Agreement between Meagher County Newlan Creek Water District and MFWP, dated September 3, 1997 (Appendix F), which states that "MFWP further agrees…to use its best efforts in controlling the use of the same in accordance with good management practices." MFWP will continue implementing the MFWP Statewide Integrated Noxious Weed Management Plan to control noxious weeds and all MFWP applicable rules and policies at the FAS.

Alternative B: Proposed Action

MFWP proposes to develop a portion of the 135-acre Newlan Creek Reservoir FAS, which would include: improvement of gravel access roads and development of designated campsites throughout Camp Loops A and B, Big Point, and Little Point; construction of a designated gravel parking area at Headwaters, construction of a gravel boat access on Little Point, relocation of one vault latrine from the existing parking area to Big Point, locating another vault latrine at Little Point or Headwaters, and additional regulatory and informational signs. Figure 4 provides a plan view conceptual plan of the proposed action. The proposed improvements would be implemented over time as funding became available. The proposed developments would improve the recreational opportunities, including fishing, camping, hunting, boating, picnicking, and wildlife viewing at Newlan Creek Reservoir, a popular and heavily-used recreational site close to White Sulphur Springs. The proposed developments would also reduce public safety hazards and minimize degradation of fish and wildlife habitats, native plant communities, and trespass onto neighboring private lands.

2. **Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:** MFWP would maintain and manage the facilities as a FAS. The property would be open to public use. Operations and maintenance funding would be provided from the MFWP Region 4 Fisheries Fishing Access Site Program and Enforcement budget for noxious weed management, latrine maintenance, caretaker work, and routine patrols and enforcement of the site. The MFWP Design and Construction Bureau engineering staff have completed conceptual designs for the proposed site plan. A contractor would finalize designs and integrate best management practices (Appendix D). A private construction contractor, required to meet all state standards and specifications, would complete construction of the project. The Design and Construction Bureau would oversee the project and is responsible for final inspection. All state and federal permits needed are the responsibility of MFWP or the contractor through MFWP.

PART III. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

1. LAND RESOURCES Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. **Soil instability or changes in geologic substructure?		X				1a.
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility?			X		Yes Positive	1b.
c. **Destruction, covering or modification of any unique geologic or physical features?		X				1c.
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?			X		Yes Positive	1d.
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X			.	

1a/1b. The proposed development would not affect existing soil patterns, structures, productivity, fertility, erosion, compaction, or instability. Soil and geologic substructure would remain stable during and after the proposed work.

1b. Improvement of pioneered access roads and parking areas and construction of campsite pads would disrupt, displace, and compact soils in the immediate vicinity of construction. Existing pioneered roads would be used as a template for newly designed roads, where possible, to minimize disturbance to soils and vegetation. Improvements would be made to those areas most heavily used by the public, thus minimizing impacts to undisturbed areas. Disturbed areas would be seeded with a native seed mix to reduce erosion and the spread of noxious weeds. The proposed improvements would reduce erosion and sedimentation from the pioneered roads and campsites.

1c. No unique geologic or physical features would be altered by the proposed project.

1d. The proposed project would have minor impacts on the bed or shore of Newlan Reservoir. Minor amounts of sediment may enter the reservoir during construction of the access roads, parking areas, gravel boat launch, and campsites. However, upon completion of the proposed project, erosion and reservoir sedimentation would be greatly diminished when compared to pre-project conditions.

* Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or cannot be evaluated.

** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

2. AIR Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. **Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).)			X		Yes	2a.
b. Creation of objectionable odors?			X		Yes	2b.
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ***For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regs? (Also see 2a.)		X				2e.

2a. During construction, temporary amounts of dust may be generated during leveling and grading of access roads and construction of campsites and parking areas. If additional materials are needed off-site, loading at the source site would generate minor amounts of dust. MFWP would follow the MFWP Best Management Practices (BMP) during all phases of construction to minimize risks and reduce dust. See Appendix D for the BMP's.

2b. The vault latrines would be regularly maintained to minimize objectionable odors. During construction, mechanized equipment may create fumes and odors while operating. Efforts will be taken to minimize exposure to the general public by scheduling work to occur during low use periods and/or temporarily closing portions of the FAS.

2e. The proposed project would not result in discharges that would conflict with federal or state air quality regulations.

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3. WATER Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. *Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?			X		Yes	3a.
b. Changes in drainage patterns or the rate and amount of surface runoff?			X		Yes	3b.
c. Alteration of the course or magnitude of floodwater or other flows?		X				3c.
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				3d.
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?			X		Yes	3h.
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. ****For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.)		X				3l.
m. ***For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.)		X				3m.

3a. Improvements to existing access roads and construction of new access roads, campsites, boat launch, and parking areas may cause a temporary, localized increase in turbidity in Newlan Reservoir. MFWP would obtain a Montana Department of Environmental Quality (DEQ) 318 Authorization Permit for Short Term Water Quality Standard for Turbidity. MFWP Best Management Practices (BMP's) would be followed (Appendix D). MFWP would follow the permit requirements for the Montana Department of Environmental Quality for Permit 318 for Short Term Water Quality Standard for Turbidity.

3b. Improvements to existing access roads and construction of new access roads, campsites, boat launch, and parking areas may alter surface runoff. The proposed work would be designed to

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minimize and reduce any effect on surface water, surface runoff, and drainage patterns. MFWP BMP's would be followed (Appendix D).

3d. During construction, there may be a minor, temporary increase of runoff. The proposed project would have no effect on storage or water level elevations in Newlan Creek Reservoir.

3h. The use of heavy equipment during construction may result in a slight risk of contamination from petroleum products and an increase in sediment delivery to the reservoir. MFWP BMP's would be followed during all phases of construction to minimize these risks. (Appendix D). The application of herbicides to manage the existing noxious weeds would be applied according to the guidelines in the MFWP Statewide Integrated Noxious Weed Management Plan and according to label instructions.

3l. The Meagher County Floodplain Administrator confirmed on December 30, 2011 that Newlan Creek Reservoir FAS is not in a designated floodplain and there is not a base flood elevation, since the FEMA maps for Meagher County were rescinded in the late 1980's or 1990's.

3m. All impacts to water quality would be temporary resulting from construction. Water quality of the reservoir could improve as a result of the proposed project by reducing sedimentation into the reservoir from pioneered roads, campsites, and parking areas.

4. VEGETATION **Will the proposed action result in?**	**IMPACT ***					
	Unknown *	**None**	**Minor ***	**Potentially Significant**	**Can Impact Be Mitigated ***	**Comment Index**
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X		Yes Positive	4a
b. Alteration of a plant community?			X		Yes Positive	4b.
c. Adverse effects on any unique, rare, threatened, or endangered species?		X				4c.
d. Reduction in acreage or productivity of any agricultural land?		X				4d.
e. Establishment or spread of noxious weeds?			X		Yes	4e.
f. ****For P-R/D-J, will the project affect wetlands, or prime and unique farmland?		X				4f.

4a./4b. Minor impact to existing vegetation is anticipated by the proposed action because most of the areas designated for improvement has been previously highly disturbed by visitors pioneering roads, parking areas, and campsites. By grading and improving the designated access roads, covering areas prone to erosion with erosion fabric, and seeding eroded areas due to indiscriminant vehicle use with native species, native plant communities would be expected to benefit from the action.

Vegetation types found at Newlan Creek Reservoir FAS, as identified by the Montana Natural Heritage Program, include Big Sagebrush Steppe, Rocky Mountain Montane, Foothill, and Valley

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Grassland, and Rocky Mountain Montane Douglas-Fir Forest and Woodland. Common plants found in the Big Sagebrush Steppe type, which covers the largest area of the FAS, include big sagebrush, rubber rabbitbrush, western wheatgrass, blue grama, Sandberg's bluegrass, threadleaf sedge, Hood's phlox, and prickly pear. Cheatgrass and Japanese brome are also common in these areas. Common plants found in the Rocky Mountain Montane, Foothill, and Valley Grassland type include buebunch wheatgrass, Idaho fescue, rough fescue, prairie junegrass, Wood's rose, snowberry, yarrow, and fringed sagewort. Common plants found in the Rocky Mountain Montane Douglas-fir Forest and Woodland type, include Douglas-fir, Rocky Mountain juniper, occasional limber pine and ponderosa pine, Wood's rose, snowberry, bluebunch wheatgrass, and Idaho fescue. Rocky Mountain juniper is the dominant tree species around camp loop A.

Common introduced species found on the property include smooth brome, cheatgrass, Japanese brome, spotted knapweed, leafy spurge, houndstongue, and Canada thistle. The most common noxious weeds found on the property are spotted knapweed, houndstongue, and leafy spurge, with smaller concentrations of Canada thistle. MFWP will continue to implement the MFWP Statewide Integrated Noxious Weed Management Plan to control noxious weeds on the property.

4c. A search of the Montana Natural Heritage Program's (MNHP) Species of Concern database found that the divide bladderpod, a vascular plant, was reported within .5 miles of Newlan Creek Reservoir FAS in 1987. It is unlikely that the construction of the proposed project would have any impact on the divide bladderpod since the project area has been highly disturbed for over 30 years and the bladderpod has not been reported in the area since 1987.

4d. The property was historically used for livestock grazing and the Water District has leased portions of the property for livestock grazing in the past, though the areas north and west of the reservoir are not currently grazed. According to the Agreement with MFWP, the Water District retains the right to lease the property for grazing. MFWP does not manage grazing leases on the property.

4e. Few noxious weeds are found on Newlan Creek Reservoir FAS within the project area. However, soils disturbed during construction could colonize with weeds. Disturbed areas would be re-seeded with a native reclamation seed mix where necessary to reduce the establishment of weeds. In conjunction with Meagher County Weed Control District and/or private contractors, MFWP would continue implementing the Statewide Integrated Weed Management Plan using chemical, biological and mechanical methods to control weeds on the property. Weed management would include the establishment of native vegetation to prevent the spread of weeds. Vehicles would be restricted to the parking area and access road, which would be maintained as weed-free, and vehicles would not be allowed on undisturbed areas of the site to minimize the spread of noxious weeds. MFWP estimates that weed control will cost approximately $2,500 during fiscal year 2012.

4f. One freshwater emergent wetland, designated by the Montana Natural Heritage Program, is found near Camp Loop B on the FAS property (Appendix B). Common plants found in this area include cattails and various sedges. It is unlikely that this wetland would be affected by the proposed development because it is not located near the proposed project area. No other wetlands are located near the proposed project area. No prime or unique farmlands, or farmlands of statewide or local importance are located within the project area, as defined by the U.S. Department of Agriculture Natural Resource Conservation Service.

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** 5. FISH/WILDLIFE Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. Deterioration of critical fish or wildlife habitat?		X				5a.
b. Changes in the diversity or abundance of game animals or bird species?			X		Yes	5b.
c. Changes in the diversity or abundance of nongame species?		X				5c.
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				5f.
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		X				5g.
h. ****For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.)		X				5h.
i. ***For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.)		X				5i.

5a,b,c. Based on a review of the Montana Natural Heritage Program, common wildlife species whose habitat distribution overlaps Newlan Creek Reservoir FAS include white-tailed deer, mule deer, pronghorn, elk, mountain lion, bobcat, badger, red fox, golden eagle, red-tail hawk, great-horned owl, and waterfowl. On occasion black bear, bald eagle, and river otter are also found in the area. A wide variety of resident and migratory birds seasonally use the area, including Canada geese, ducks, and numerous songbirds. The site also provides habitat for raptors, including hawks and bald eagles.

According to a review of Montana Fisheries Information System (MFISH), common game fish found in Newlan Creek include brook trout, rainbow trout, and mountain whitefish. According to surveys by MFWP, the number of angler days per year from 2001 to 2007 on the 22-mile stretch of Newlan Creek averaged 323, with a low of 109 in 2001 and a high of 585 in 2005. The state ranking for this stream ranged from 363 to 893 during this same period. Newlan Creek is open to fishing from the third Saturday in May to November 30.

MFWP has planted Newlan Creek Reservoir with rainbow trout, Yellowstone cutthroat trout, westslope cutthroat trout, brown trout, and burbot. In addition to these species, other game species found in the reservoir include brook trout, and mountain whitefish. According to surveys

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by MFWP, the number of angler days per year from 2001 to 2009 at Newlan Creek Reservoir averaged 7,523, with a low of 5,236 in 2001 to high of 9,321 in 2009. The state ranking for the reservoir ranged from 67 to 102 for this same period. Newlan Reservoir is open to fishing year round. The improvement of access roads and parking areas and the addition of campsites at Newlan Reservoir could potentially lead to increased angler use. Periodic monitoring of fish populations in the reservoir by MFWP would be maintained to the fishery resources. Although the nearby Smith River also offers quality-fishing opportunities, it is unlikely that substantial angling pressure would be diverted to Fort Logan FAS due to the distance between the two sites and the difference in fishing experiences. MFWP Best Management Practices (BMP's) would be implemented to minimize direct impacts to fish and fish habitat during construction. We anticipate that minor improvements to wildlife habitat could result from the proposed project if vegetation responds positively to the reduction in dispersed camping use.

5f. The Montana Natural Heritage Program (MNHP), U.S. Fish and Wildlife Service (USFWS), and MFWP biologists were contacted regarding impacts to Threatened and Endangered (TE) Species or their critical habitat in the area the proposed development site.

A search of the Natural Resources Information System (NRIS) provided by the Montana Natural Heritage Program showed that the Canada lynx is the only species in the project area that has been listed as threatened by the U.S. Fish and Wildlife Service, with the last observation in 1997. The wolverine, considered a candidate for federal listing, and Yellowstone and westslope cutthroat trout are species of concern that have been reported within the vicinity of the project area, with the most recent observation of wolverine in 2003. No observation dates for Yellowstone cutthroat trout were recorded, which is due to a cessation of stocking in 2005 and no natural reproduction of this species that is not native to the Smith River drainage. Westslope cutthroat trout continue to be planted annually in Newlan Creek Reservoir when available; any impacts from the development and increased use could be mitigated by increasing stocking requests. Divide bladderpop, a vascular plant, was observed within .5 mile of the project area in 1987 (Appendix B – Native Species Report). The project is unlikely to have any impact on Canada lynx, Yellowstone and westslope cutthroat trout, wolverine, and divide bladderpod since the project area does not provide occupied habitat for these species, the FAS has been highly disturbed for years by public recreational use, and the reservoir has fluctuating water levels from irrigation use. However, fluctuations in water levels are substantially less than other nearby irrigation reservoirs.

According to Nathan Lance, MFWP wolf specialist, gray wolves do not frequent the area and there are no documented packs in the immediate area, though it is possible that wolves occasionally move through the area. As a result, wolves would not be directly or indirectly affected by the proposed development.

Jeff Berglund, Biologist, Helena Field Office, USFWS was contacted on January 3, 2012 regarding TE species found within Meagher County. Species of concern within Meagher County include Greater Sage-Grouse, Sprague's Pipit, and Wolverine listed as candidates for listing as threatened or endangered. These species are not likely to be in the area of the FAS; and the proposed development at the site should not impact these species. Sprague's pipit prefers large expanses of grassland habitat and greater sage grouse prefer sagebrush benches. Although the FAS is dominated by coniferous forests, a preferred habitat for wolverine, the site is at a lower elevation than where wolverine typically are found. Mr. Berglund coordinated with Mark Wilson, USFWS Field Supervisor at the Helena Field Office and sent a letter dated January 11, 2012 which stated given the scope of the project and location, we do not anticipate that project implementation would result in adverse effects to listed, proposed, or candidate threatened or endangered species or critical habitat.

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5g. The improved facilities at Newlan Creek Reservoir FAS may result in increased use of the area for fishing in both the reservoir and Newlan Creek for deer, waterfowl, and upland bird hunting, boating, picnicking, and wildlife viewing. The site was previously disturbed with a developed parking area, boat launching facilities, access roads, and pioneered roads, parking areas, and campsites. This proposed phase of development at Newlan Creek Reservoir FAS would not contribute to additional disturbance of the area and would have no permanent, detrimental impact on existing wildlife or wildlife habitat or increase stress on existing wildlife populations. In addition, the area is not considered critical wildlife habitat.

The improved facilities could lead to increased use by anglers, which could increase demand on existing fish populations in the reservoir and Newlan Creek. If impacts were observed, those could be mitigated by modifications of fishing regulations and stocking rates by MFWP.

5h. The Canada lynx is the only threatened or endangered species found near the project area (Appendix B – Native Species Report). Since the FAS and the project area have been highly disturbed for years from recreational use and irrigation and is not typical lynx habitat, it is unlikely that the proposed development would have any impact on the Canada lynx.

5i. No species would be introduced or exported to the area as a result of the proposed development.

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B. HUMAN ENVIRONMENT

6. NOISE/ELECTRICAL EFFECTS Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. Increases in existing noise levels?			X		Yes	6a.
b. Exposure of people to severe or nuisance noise levels?			X		Yes	6b.
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				

6a. Construction equipment would cause a temporary, minor increase in noise levels at the site. Proximity to Newlan Creek Road may mask any increase in noise level at the construction site.

6b. No residences are located within 0.5 miles of Newlan Creek Reservoir FAS or the project area. The minor and temporary noise levels during construction may disturb some visitors, but MFWP would attempt to limit construction to periods of low visitation to minimize disturbance to visitors.

7. LAND USE Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		X				7a.
b. Conflict with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		X				7c.
d. Adverse effects on or relocation of residences?		X				

7a. Neither the Water District nor MFWP currently leases any portion of the property for livestock grazing and there are no plans to lease the any portion of the property for livestock grazing in the future.

Primitive campsites, fire rings, parking areas, and access roads are located throughout Newlan Creek Reservoir FAS. The proposed development would not alter or interfere with the productivity or profitability of the existing land use of the property. The proposed improvements and the addition of campsites would improve the recreational opportunities in the area.

7c. The Water District retains the right to prohibit public access to designated areas, such as the

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dam, spillway, and water measurement and recording devices. According to the Agreement between the Water District and MFWP, MFWP would continue to manage the public recreational use and facilities until December 2022. The proposed project is consistent with the terms of the Agreement and would not be limited by dam operations, nor would the project limit the Water District's operations to provide irrigation water.

8. RISK/HEALTH HAZARDS **Will the proposed action result in:**	**IMPACT ***					
	Unknown *	**None**	**Minor***	**Potentially Significant**	**Can Impact Be Mitigated ***	**Comment Index**
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?			X		Yes	8a.
b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?			X		Yes Positive	8c.
d. ***For P-R/D-J, will any chemical toxicants be used? (Also see 8a)			X		Yes	8d.

8a. Physical disturbance of the soil during construction could encourage the establishment of additional noxious weeds on the site. In conjunction with the Meagher County Weed District, MFWP would continue implementing an integrated approach to control noxious weeds, as outlined in the MFWP Statewide Integrated Noxious Weed Management Plan. The integrated plan uses a combination of biological, mechanical and herbicidal treatments to control noxious weeds. The use of herbicides would be in compliance with application guidelines to minimize the risk of chemical spills or water contamination and applied by people trained in safe handling techniques. Construction activity could also increase the risk of leaks of petroleum products used by equipment. Precautions would be taken during fueling and storage of all hazardous substances.

8c. The proposed project would improve public safety by constructing safe access roads; improving the flow of vehicle traffic throughout the FAS; developing campsites and parking areas in stable, safe locations, and reducing the risk of wildfires by providing safe, permanent fire rings.

8d. No toxicants are proposed to be used as part of the proposed action. However, the volume of herbicides to control noxious weeds at the FAS could temporarily increase in the future as a result of the project. The use of herbicides would be in compliance with the label and application guidelines outlined in the MFWP Statewide Integrated Noxious Weed Management Plan and would be applied by licensed applicators.

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*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

9. COMMUNITY IMPACT **Will the proposed action result in:**	**Unknown ***	**None**	**Minor ***	**Potentially Significant**	**Can Impact Be Mitigated ***	**Comment Index**
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		X				
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?			X		Yes Positive	9c.
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?			X		Yes	9e.

9c. The proposed project may increase use by residents of Meagher County and tourism in the area by increasing the number of visitors to the White Sulphur Springs area due to the improved recreational facilities. This would benefit local retail and service businesses (Appendix C - Tourism Report). The proposed development at Newlan Creek Reservoir FAS would not have disproportionately high and adverse human health or environmental effects on low-income or minority populations. No changes in fees are proposed as part of this project. Some areas may undergo partial development, but continue to provide camping at no cost. Currently, a nominal fee of $7 per night with fishing license and $12 per night without fishing license is charged for over-night camping. Camping fees for users over age 62 or for the disabled is at half-rate for camping ($3.50/night with fishing license and $6 per night without a fishing license). No fees are charged for day-use. The facilities will be available to qall members of the public under existing regulations.

9e. The proposed development at Newlan Creek Reservoir FAS could increase vehicle trips per day through White Sulphur Springs and could slightly increase traffic and traffic hazards in White Sulphur Springs and along Highways 89 and 360 and Newlan Creek Road.

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**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

10. PUBLIC SERVICES/TAXES/UTILITIES Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		X				10a.
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				10b.
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased use of any energy source?		X				
e. **Define projected revenue sources		X				10e.
f. **Define projected maintenance costs.		X				10 f.

10a. The proposed development would have no impact on public services, taxes or utilities. The proposed development would require periodic maintenance by MFWP and would be patrolled by MFWP.

10b. Local and state taxes would not be affected by the proposed project.

10e. The proposed development would be funded by fees collected from hunting and fishing licenses, boat registrations, and the federal Wallop-Breaux Fund. Newlan Creek Reservoir FAS would continue to be operated for day use and overnight camping. The annual revenue from camping fees for fiscal year 2011 is estimated to be approximately $7,000. With the addition of designated campsites, future revenues from camping are anticipated to be higher if the current fee structure is maintained by the Fisheries Bureau. However, with increased public use, annual maintenance expenses would be expected to be higher. The camping fee without a fishing license is $12 per night and with a fishing license is $7. Camping fees for users over age 62 or for the disabled is at half-rate for camping ($3.50/night with fishing license and $6 per night without a fishing license). Camping is open year-round.

10f. Projected annual operating, maintenance, and personnel expenses for fiscal year 2012 will be approximately $15,000, which includes noxious weed control.

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** Include a narrative description addressing the items identified in 12.8.604-1a (ARM).

*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

** 11. AESTHETICS/RECREATION Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?			X		Yes	11a.
b. Alteration of the aesthetic character of a community or neighborhood?			X		Yes Positive	11b.
c. **Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.)			X		Yes Positive	11c.
d. ***For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.)		X				11d.

11a. The FAS is operated for day use and camping. The proposed project would include improvement of pioneered campsite access roads and parking areas and development of designated campsites. The proposed developments would be visible from the reservoir and partially from Newlan Creek Road.

11b. The site is already developed so the improvement of access roads and development of a boat launch and established campsites would not detract from the scenic values of the site. By improving some pioneered access roads and removing others, and by replacing randomly, pioneered campsites with developed, designated sites, the aesthetic character of campsites and the area would be improved.

11c. The proposed development of Newlan Creek Reservoir FAS would provide safe public overnight camping opportunities for the White Sulphur Springs and greater Great Falls, Bozeman, Livingston, Butte, and Helena areas. In addition, the proposed development would allow for continued public use for fishing, hunting, boating, picnicking, and wildlife viewing in the scenic Newlan Creek area.

11d. No designated or proposed wild or scenic rivers, trails, or wilderness areas would be impacted by the proposed development.

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12. CULTURAL/HISTORICAL RESOURCES Will the proposed action result in:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. **Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				12a.
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ****For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.)		X				12a.

12a. The site has been surveyed twice for cultural significance. One site recorded in 1979 was re-located during the 2000 cultural survey. The State Historic and Preservation Office (SHPO) reviewed and concurred with the adequacy of the reports and the low likelihood of the proposed project adversely affecting the cultural resources. A clearance from the State Historic Preservation Office (SHPO) has been obtained (Appendix E). If cultural materials are discovered during the project, work would cease and SHPO will be contacted for a more in-depth investigation.

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SIGNIFICANCE CRITERIA

13. SUMMARY EVALUATION OF SIGNIFICANCE Will the proposed action, considered as a whole:	IMPACT *					
	Unknown *	None	Minor *	Potentially Significant	Can Impact Be Mitigated *	Comment Index
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. ***For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.)		X				13f.
g. ****For P-R/D-J, list any federal or state permits required.			X			13g.

During construction of the proposed improvements, there may be minor and temporary impacts to the physical environment, but the impacts would be short-term and the improvements would benefit the community and recreational opportunities over the long-term. The proposed project would result in no cumulative impacts to the biological, physical, and human environments. Over the long-term, the proposed development would positively impact public recreational use of Newlan Creek Reservoir, a popular and heavily used recreational area.

13f. Newlan Creek Reservoir FAS is a very popular and heavily used FAS. The proposed project is designed to improve recreational facilities on the site and is not expected to generate organized opposition or substantial public controversy.

13g. The U.S. Army Corps of Engineer 404 permit issued under the Federal Clean Water Act is the only federal permit required for the proposed development. State permits that may be required include the 124 (Stream Protection Act), 318 (Short term water quality Standard exemption for turbidity), and the Stormwater Discharge permit.

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*** Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

**** Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PART III. NARRATIVE EVALUATION AND COMMENT

During construction of the proposed improvements, there may be minor and temporary impacts to the physical environment, but the impacts would be short-term and can be mitigated and the improvements would benefit the community and recreational opportunities over the long-term. The proposed development would have no negative cumulative effects on the biological, physical, and human environments. When considered over the long-term, the proposed development positively impacts the public's recreational use of Newlan Creek Reservoir, a popular and heavily used recreational area.

The minor impacts to the environment that were identified in the previous section are small in scale and would not influence the overall environment of the immediate area. The natural environment would continue to provide habitat to transient and permanent wildlife species and would be open to the public for access to the reservoir and Newlan Creek.

Few noxious weeds are found on Newlan Creek Reservoir FAS. Disturbed areas would be re-seeded with a native reclamation seed mix where necessary to reduce the establishment of weeds. In conjunction with Meagher County Weed Control District, MFWP would continue implementing the MFWP Statewide Integrated Weed Management Plan using chemical, biological and mechanical methods to control weeds on the property. Weed control would continue to be a high management priority at the FAS.

The proposed development would not impact local wildlife species that frequent the property and would not increase conditions that stress wildlife populations. The property is not considered critical habitat for any species. Even though the area is within the habitat of the threatened Canada lynx, it is not preferred habitat and the proposed development is unlikely to impact this species since there is already substantial activity and disturbance in the area from recreational activities, Newlan Creek Road, and irrigation use. Although wolves travel through the project area, none have been sighted and there is no pack located in the area. Consequently, it is unlikely that the proposed development would impact gray wolves.

The improvement of access roads, parking areas, and the addition of campsites and boat launch at Newlan Creek Reservoir FAS could potentially lead to increased angler use. Periodic monitoring of fish populations in the reservoir by MFWP will continue. Although the nearby Smith River also offers quality-fishing opportunities, it is unlikely that substantial angling pressure would be diverted to Fort Logan FAS due to the distance between the two sites and the different type of recreational opportunities.

The proposed development of Newlan Creek Reservoir FAS would improve public safety hazards, reduce erosion and degradation to water quality, and reduce degradation of riparian and upland habitats from pioneered roads and campsites. In addition, the proposed development would improve infrastructure utilized for camping, boating, fishing, hunting, picnicking, and wildlife viewing at Newlan Creek Reservoir.

PART IV. PUBLIC PARTICIPATION

1. Public Involvement:

The public will be notified in the following manners to comment on the Newlan Creek Reservoir FAS Proposed Development:

- Two public notices in each of these papers: the *Meagher County News, Great Falls*

Tribune and the *Helena Independent Record.*

- Public notice on the Fish, Wildlife & Parks web page: *http://fwp.mt.gov/news/publicNotices/*
- Direct notice will be given to adjacent landowners.
- Draft EA's will be available at the MFWP Region 4 Headquarters in Great Falls and the MFWP State Headquarters in Helena.
- A news release will be prepared and distributed to a standard list of media outlets interested in MFWP Region 4 issues.
- Notification of the availability of copies of this environmental assessment will be distributed to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited impacts, many of which can be mitigated.

If requested within the comment period, MFWP will schedule and conduct a public meeting(s) on this proposed project.

2. Duration of comment period.

The public comment period will extend for (30) thirty days following the publication of the second legal notice in area newspapers. Written comments will be accepted until 5:00 P.M. May 12, 2012 and can be e-mailed to gliknes@mt.gov or mailed to:

Newlan Creek Reservoir Fishing Access Site Proposed Phase II Development
Montana Fish, Wildlife & Parks, Region 4
4600 Giant Springs Road
Great Falls, MT 59405
(406) 454-5855

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? NO
If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Based on an evaluation of impacts to the physical and human environment under MEPA, this environmental review revealed no significant negative impacts from the proposed action: therefore, an EIS is not necessary and an environmental assessment is the appropriate level of analysis. In determining the significance of the impacts, MFWP assessed the severity, duration, geographic extent, and frequency of the impact, the probability that the impact would occur or reasonable assurance that the impact would not occur. MFWP assessed the growth-inducing or growth-inhibiting aspects of the impact, the importance to the state and to society of the environmental resource or value affected, any precedent that would be set as a result of an impact of the proposed action that would commit MFWP to future actions, and potential conflicts with local, federal, or state laws. As this EA revealed no significant impacts from the proposed actions, an EA is the appropriate level of review and an EIS is not required.

2. Persons responsible for preparing the EA:

George Liknes
Region 4 Parks Manager
4600 Giant Springs Road
Great Falls, MT 59405
gliknes@mt.gov
(406) 454-5840

Andrea Darling
FWP EA Contractor
39 Big Dipper Drive
Montana City, MT 59634
apdarling@gmail.com

3. List of agencies consulted during preparation of the EA:

Meagher County Floodplain Administrator
Montana Department of Commerce – Tourism
Montana Fish, Wildlife & Parks
- Director's Office
  - Lands Unit
  - Legal Unit
- Parks Division
  - Design and Construction Section
- Fish and Wildlife Division
  - Fisheries Bureau
  - Wildlife Bureau
  - Design and Construction Section

Montana Natural Heritage Program – Natural Resources Information System (NRIS)
U.S. Department of Agriculture Natural Resource Conservation Service
USFWS Ecological Services Montana Field Office

APPENDICES

A. MCA 23-1-110 Qualification Checklist
B. Native Species Report - Montana Natural Heritage Program (MNHP)
C. Tourism Report – Department of Commerce
D. Montana Fish, Wildlife and Parks Best Management Practices
E. State Historic Preservation Office Clearance for Newlan Creek Reservoir FAS
F. Agreement between Meagher County Newlan Creek Water District and Montana Fish, Wildlife and Parks, dated September 3, 1997

APPENDIX A
23-1-110 MCA PROJECT QUALIFICATION CHECKLIST

Date: August, 2011 **Person Reviewing:** Andrea Darling

Project Location: Newlan Creek Reservoir FAS is located on Newlan Reservoir, 10 miles north of White Sulphur Springs, 1 mile west of Highway 89 in Meagher County, in Sections 11 and 12, T 10 N, R 6 E.

Description of Proposed Work: MFWP proposes to develop a portion of Newlan Creek Reservoir FAS, which would include: improvement of gravel access roads and development of designated campsites throughout Camp Loops A and B, Big Point, and Little Point; construction of a designated gravel parking area on Headwaters, construction of a gravel boat access on Little Point, relocation of one vault latrine from the existing parking area to Big Point, the relocation of another vault latrine from an offsite location to Little Point or Headwaters, and additional regulatory and informational signs.

The following checklist is intended to be a guide for determining whether a proposed development or improvement is of enough significance to fall under 23-1-110 rules. (Please check all that apply and comment as necessary.)

[ ] A. New roadway or trail built over undisturbed land?
Comments: The majority of roads will be constructed over pioneered roads, minimizing construction on undisturbed land.

[ ] B. New building construction (buildings <100 sf and vault latrines exempt)?
Comments: No buildings will be constructed.

[X] C. Any excavation of 20 c.y. or greater?
Comments: Yes, for road and campsite construction.

[X] D. New parking lots built over undisturbed land or expansion of existing lot that increases parking capacity by 25% or more?
Comments: Additional parking areas on Big Point, Little Point, and Headwaters Areas would increase parking capacity by 25%.

[ ] E. Any new shoreline alteration that exceeds a doublewide boat ramp or handicapped fishing station?
Comments: There would be no shoreline alteration

[ ] F. Any new construction into lakes, reservoirs, or streams?
Comments: There will be no construction into the reservoir.

[ ] G. Any new construction in an area with National Registry quality cultural artifacts (as determined by State Historical Preservation Office)?
Comments: No.

[ ] H. Any new above ground utility lines?
Comments: No new utility lines.

[X] I. Any increase or decrease in campsites of 25% or more of an existing number of campsites?
Comments: There are approximately five existing designated campsites. Approximately 13 designated campsites would be developed.

[X] J. Proposed project significantly changes the existing features or use pattern; including effects of a series of individual projects?
Comments: The construction and improvement of access roads and construction of delineated campsites would change the existing use pattern of the area by eliminating unrestricted vehicle travel on the property.

If any of the above is checked, 23-1-110 MCA rules apply to this proposed work and should be documented on the MEPA/HB495 CHECKLIST. Refer to MEPA/HB495 Cross Reference Summary for further assistance.

APPENDIX B
NATIVE SPECIES REPORT
MONTANA NATURAL HERITAGE PROGRAM
Sensitive Plants and Animals in the Vicinity of Newlan Creek Reservoir FAS

Species of Concern Terms and Definitions

A search of the Natural Resources Information System (NRIS) provided by the Montana Natural Heritage Program showed that Canada lynx is the only species in the project area that has been listed as threatened by the U.S. Fish and Wildlife Service, with the last observation in 1997. The wolverine, considered a candidate for federal listing, and Yellowstone cutthroat trout are species of concern that have been reported within the vicinity of the project area, with the most recent observation of wolverine in 2003. No observation dates for Yellowstone cutthroat trout were recorded. Divide bladderpop, a vascular plant, was observed within .5 mile of the project area in 1987 (Appendix B – Native Species Report).

Montana Species of Concern. The term **"Species of Concern"** includes taxa that are at-risk or potentially at-risk due to rarity, restricted distribution, habitat loss, and/or other factors. The term also encompasses species that have a special designation by organizations or land management agencies in Montana, including: Bureau of Land Management Special Status and Watch species; U.S. Forest Service Sensitive and Watch species; U.S. Fish and Wildlife Service Threatened, Endangered and Candidate species.

Status Ranks (Global and State)

The international network of Natural Heritage Programs employs a standardized ranking system to denote global (**G** -- range-wide) and state status (**S**) (Nature Serve 2003). Species are assigned numeric ranks ranging from 1 (critically imperiled) to 5 (demonstrably secure), reflecting the relative degree to which they are "at-risk". Rank definitions are given below. A number of factors are considered in assigning ranks -- the number, size and distribution of known "occurrences" or populations, population trends (if known), habitat sensitivity, and threat. Factors in a species' life history that make it especially vulnerable are also considered (e.g., dependence on a specific pollinator).

Status Ranks

Code	Definition
G1 S1	At high risk because of extremely limited and/or rapidly declining numbers, range, and/or habitat, making it highly vulnerable to global extinction or extirpation in the state.
G2 S2	At risk because of very limited and/or declining numbers, range, and/or habitat, making it vulnerable to global extinction or extirpation in the state.
G3 S3	Potentially at risk because of limited and/or declining numbers, range, and/or habitat, even though it may be abundant in some areas.
G4 S4	Uncommon but not rare (although it may be rare in parts of its range), and usually widespread. Apparently not vulnerable in most of its range, but possibly cause for long-term concern.
G5 S5	Common, widespread, and abundant (although it may be rare in parts of its range). Not vulnerable in most of its range.

MFWP Conservation Need. Under Montana's Comprehensive Fish and Wildlife Conservation Strategy of 2005, individual animal species are assigned levels of conservation need as follows:

Tier I. Greatest conservation need. Montana MFWP has a clear obligation to use its resources to implement conservation actions that provide direct benefit to these species, communities and focus areas.

Tier II. Moderate conservation need. Montana MFWP could use its resources to implement conservation actions that provide direct benefit to these species communities and focus areas.

Tier III. Lower conservation need. Although important to Montana's wildlife diversity, these species, communities and focus areas are either abundant or widespread or are believed to have adequate conservation already in place.

Tier IV. Species that are non-native, incidental or on the periphery of their range and are either expanding or very common in adjacent states.

SENSITIVE PLANTS AND ANIMALS IN THE VICINITY OF NEWLAN CREEK RESERVOIR FAS

1. **Oncorhynchus clarkii bouvieri (Yellowstone cutthroat trout)**

Natural Heritage Ranks	Federal Agency Status:
State: **S2**	U.S. Fish and Wildlife Service:
Global: **G4T2**	U.S. Forest Service**: Sensitive**
	U.S. Bureau of Land Management: **Sensitive**

FWP CFWCS Tier: **1**

Element Occurrence data was reported of Yellowstone cutthroat trout in the Smith River within the project area. No observation dates were recorded.

2. **Gulo gulo (Wolverine)**

Natural Heritage Ranks	Federal Agency Status:
State: **S3**	U.S. Fish and Wildlife Service: **C**
Global: **G4**	U.S. Forest Service**: Sensitive**
	U.S. Bureau of Land Management: **Sensitive**

FWP CFWCS Tier: **2**

Element Occurrence data was reported of wolverine within the project area. The last observation date was 2003.

3. **Lynx canadensis (Canada lynx) -**

Natural Heritage Ranks	Federal Agency Status:
State: **S3**	U.S. Fish and Wildlife Service: **LT**
Global: **G5**	U.S. Forest Service**: Threatened**
	U.S. Bureau of Land Management: **Special Status**

FWP CFWCS Tier: **1**

Element Occurrence data was reported of Canada lynx within the project area. The last observation date was 1997.

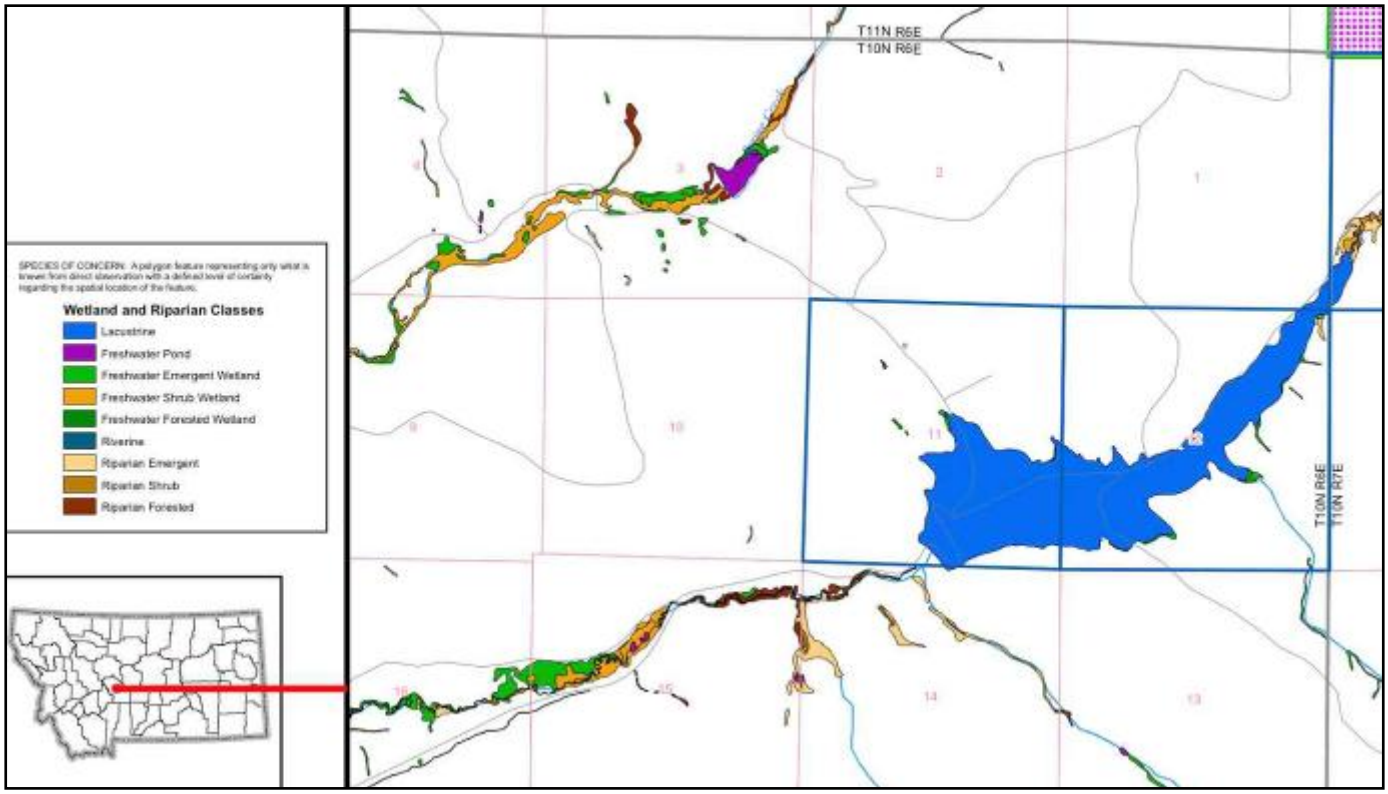
4. **Physaria klausii (Divide bladderpod)- vascular plant**

Natural Heritage Ranks	Federal Agency Status:
State: **S3**	U.S. Fish and Wildlife Service:
Global: **G5**	U.S. Forest Service**:**
	U.S. Bureau of Land Management:

FWP CFWCS Tier:

Element Occurrence data was reported of divide bladderpod within .5 miles of the project area. The last observation date was 1987.

NEWLAN RESERVOIR - WETLANDS



Information courtesy of Natural Heritage Program

APPENDIX C

TOURISM REPORT

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) & MCA 23-1-110

The Montana Department of Fish, Wildlife and Parks has initiated the review process as mandated by MCA 23-1-110 and the Montana Environmental Policy Act in its consideration of the project described below. As part of the review process, input and comments are being solicited. Please complete the project name and project description portions and submit this form to:

Carol Crockett, Visitor Services Manager
Travel Montana-Department of Commerce
301 S. Park Ave.
Helena, MT 59601

Project Name: Newlan Creek Reservoir FAS Phase II Development

Project Description: MFWP proposes to develop a portion of Newlan Creek Reservoir FAS, which would include: improvement of gravel access roads and development of designated campsites throughout Camp Loops A and B, Big Point, and Little Point; construction of a designated gravel parking area on Headwaters, construction of a gravel boat access on Little Point, relocation of one vault latrine from the existing parking area to Big Point, locating another vault latrine at Little Point or Headwaters and additional regulatory and informational signs.

1. Would this site development project have an impact on the tourism economy?
   NO **YES** If YES, briefly describe:

Yes, as described, the project has the potential to positively impact the tourism and recreation industry economy if properly maintained. We are assuming the agency has determined it has necessary funding for the on-going operations and maintenance once this project is complete.

2. Does this impending improvement alter the quality or quantity of recreation/tourism opportunities and settings?
   NO **YES** If YES, briefly describe:

Yes, as described, the project has the potential to improve quality and quantity of tourism and recreational opportunities if properly maintained. We are assuming the agency has determined it has necessary funding for the on-going operations and maintenance once this project is complete.

Signature Carol Crockett, Visitor Services Manager Date June 27, 2011

APPENDIX D

MONTANA FISH, WILDLIFE AND PARKS

BEST MANAGEMENT PRACTICES FOR FISHING ACCESS SITES

10-02-02

Updated May 1, 2008

I. ROADS

A. Road Planning and Location

1. Minimize the number of roads constructed at the FAS through comprehensive road planning, recognizing foreseeable future uses.
    a. Use existing roads, unless use of such roads would cause or aggravate an erosion problem.
2. Fit the road to the topography by locating roads on natural benches and following natural contours. Avoid long, steep road grades and narrow canyons.
3. Locate roads on stable geology, including well-drained soils and rock formations that tend to dip into the slope. Avoid slumps and slide-prone areas characterized by steep slopes, highly weathered bedrock, clay beds, concave slopes, hummocky topography, and rock layers that dip parallel to the slope. Avoid wet areas, including seeps, wetlands, wet meadows, and natural drainage channels.
4. Minimize the number of stream crossings.
    a. Choose stable stream crossing sites. "Stable" refers to stream banks with erosion-resistant materials and in hydrologically safe spots.

B. Road Design

1. Design roads to the minimum standard necessary to accommodate anticipated use and equipment. The need for higher engineering standards can be alleviated through proper road-use management. "Standard" refers to road width.
2. Design roads to minimize disruption of natural drainage patterns. Vary road grades to reduce concentrated flow in road drainage ditches, culverts, and on fill slopes and road surfaces.

C. Drainage from Road Surface

1. Provide adequate drainage from the surface of all permanent and temporary roads. Use outsloped, insloped or crowned roads, installing proper drainage features. Space road drainage features so peak flow on road surface or in ditches will not exceed their capacity.
    a. Outsloped roads provide means of dispersing water in a low-energy flow from the road surface. Outsloped roads are appropriate when fill slopes are stable, drainage will not flow directly into stream channels, and transportation safety can be met.
    b. For insloped roads, plan ditch gradients steep enough, generally greater than 2%, but less than 8%, to prevent sediment deposition and ditch erosion. The steeper gradients may be suitable for more stable soils; use the lower gradients for less stable soils.

c. Design and install road surface drainage features at adequate spacing to control erosion; steeper gradients require more frequent drainage features. Properly constructed drain dips can be an economical method of road surface drainage. Construct drain dips deep enough into the sub-grade so that traffic will not obliterate them.

2. For ditch relief/culverts, construct stable catch basins at stable angles. Protect the inflow end of cross-drain culverts from plugging and armor if in erodible soil. Skewing ditch relief culverts 20 to 30 degrees toward the inflow from the ditch will improve inlet efficiency.
3. Provide energy dissipators (rock piles, slash, log chunks, etc.) where necessary to reduce erosion at outlet of drainage features. Cross-drains, culverts, water bars, dips, and other drainage structures should not discharge onto erodible soils or fill slopes without outfall protection.
4. Route road drainage through adequate filtration zones, or other sediment-settling structures. Install road drainage features above stream crossings to route discharge into filtration zones before entering a stream.

D. Construction/Reconstruction

1. Stabilize erodible, exposed soils by seeding, compacting, riprapping, benching, mulching, or other suitable means.
2. At the toe of potentially erodible fill slopes, particularly near stream channels, pile slash in a row parallel to the road to trap sediment. When done concurrently with road construction, this is one method to effectively control sediment movement and it also provides an economical way of disposing of roadway slash. Limit the height, width and length of these "slash filter windrows" so not to impede wildlife movement. Sediment fabric fences or other methods may be used if effective.
3. Construct cut and fill slopes at stable angles to prevent sloughing and subsequent erosion.
4. Avoid incorporating potentially unstable woody debris in the fill portion of the road prism. Where possible, leave existing rooted trees or shrubs at the toe of the fill slope to stabilize the fill.
5. Place debris, overburden, and other waste materials associated with construction and maintenance activities in a location to avoid entry into streams. Include these waste areas in soil stabilization planning for the road.
6. When using existing roads, reconstruct only to the extent necessary to provide adequate drainage and safety; avoid disturbing stable road surfaces. Consider abandoning existing roads when their use would aggravate erosion.

E. Road Maintenance

1. Grade road surfaces only as often as necessary to maintain a stable running surface and to retain the original surface drainage.
2. Maintain erosion control features through periodic inspection and maintenance, including cleaning dips and cross-drains, repairing ditches, marking culvert inlets to aid in location, and clearing debris from culverts.
3. Avoid cutting the toe of cut slopes when grading roads, pulling ditches, or

plowing snow.

4. Avoid using roads during wet periods if such use would likely damage the road drainage features. Consider gates, barricades or signs to limit use of roads during wet periods.

II. RECREATIONAL FACILITIES (parking areas, campsites, trails, ramps, restrooms)

A. Site Design

1. Design a site that best fits the topography, soil type, and stream character, while minimizing soil disturbance and economically accomplishing recreational objectives. Keep roads and parking lots at least 50 feet from water; if closer, mitigate with vegetative buffers as necessary.
2. Locate foot trails to avoid concentrating runoff and provide breaks in grade as needed. Locate trails and parking areas away from natural drainage systems and divert runoff to stable areas. Limit the grade of trails on unstable, saturated, highly erosive, or easily compacted soils
3. Scale the number of boat ramps, campsites, parking areas, bathroom facilities, etc. to be commensurate with existing and anticipated needs. Facilities should not invite such use that natural features will be degraded.
4. Provide adequate barriers to minimize off-road vehicle use

B. Maintenance: Soil Disturbance and Drainage

1. Maintenance operations minimize soil disturbance around parking lots, swimming areas and campsites, through proper placement and dispersal of such facilities or by reseeding disturbed ground. Drainage from such facilities should be promoted through proper grading.
2. Maintain adequate drainage for ramps by keeping side drains functional or by maintaining drainage of road surface above ramps or by crowning (on natural surfaces).
3. Maintain adequate drainage for trails. Use mitigating measures, such as water bars, wood chips, and grass seeding, to reduce erosion on trails.
4. When roads are abandoned during reconstruction or to implement site-control, they must be reseeded and provided with adequate drainage so that periodic maintenance is not required.

III. RAMPS AND STREAM CROSSINGS

A. Legal Requirements

1. Relevant permits must be obtained prior to building bridges across streams or boat ramps. Such permits include the SPA 124 permit, the COE 404 permit, and the DNRC Floodplain Development Permit.

B. Design Considerations

1. Placement of boat ramp should be such that boats can load and unload with out difficulty and the notch in the bank where the ramp was placed does not encourage bank erosion. Extensions of boat ramps beyond the natural bank can also encourage erosion.

2. Adjust the road grade or provide drainage features (e.g. rubber flaps) to reduce the concentration of road drainage to stream crossings and boat ramps. Direct drainage flow through an adequate filtration zone and away from the ramp or crossing through the use of gravel side-drains, crowning (on natural surfaces) or 30-degree angled grooves on concrete ramps.
3. Avoid unimproved stream crossings on permanent streams. On ephemeral streams, when a culvert or bridge is not feasible, locate drive-throughs on a stable, rocky portion of the stream channel.
4. Unimproved (non-concrete) ramps should only be used when the native soils are sufficiently gravelly or rocky to withstand the use at the site and to resist erosion.

C. Installation of Stream Crossings and Ramps

1. Minimize stream channel disturbances and related sediment problems during construction of road and installation of stream crossing structures. Do not place erodible material into stream channels. Remove stockpiled material from high water zones. Locate temporary construction bypass roads in locations where the stream course will have a minimal disturbance. Time the construction activities to protect fisheries and water quality.
2. Where ramps enter the stream channel, they should follow the natural streambed in order to avoid changing stream hydraulics and to optimize use of boat trailers.
3. Use culverts with a minimum diameter of 15 inches for permanent stream crossings and cross drains. Proper sizing of culverts may dictate a larger pipe and should be based on a 50-year flow recurrence interval. Install culverts to conform to the natural streambed and slope on all perennial streams and on intermittent streams that support fish or that provide seasonal fish passage. Place culverts slightly below normal stream grade to avoid culvert outfall barriers. Do not alter stream channels upstream from culverts, unless necessary to protect fill or to prevent culvert blockage. Armor the inlet and/or outlet with rock or other suitable material where needed.
4. Prevent erosion of boat ramps and the affected stream bank through proper placement (so as to not catch the stream current) and hardening (riprap or erosion resistant woody vegetation).
5. Maintain a 1-foot minimum cover for culverts 18-36 inches in diameter, and a cover of one-third diameter for larger culverts to prevent crushing by traffic.

APPENDIX E

STATE HISTORIC PRESERVATION OFFICE CLEARANCE

Newlan Creek Reservoir Fishing Access Site

2011090605

SEP 06 2011

BY: SHPO

- STAN
- FWP/PARK
- Newlan CK. Res. Fishing Access. RD + Campsite Improve

Montana Fish, Wildlife & Parks

RECEIVED
SEP 08 2011
DESIGN & CONSTRUCTION
DEPT. OF FISH, WILDLIFE & PARKS

1420 East Sixth Avenue
P.O. Box 200701
Helena, Montana 59620-0701

Dr. Mark Baumler, SHPO
State Historical Preservation Office
P.O. Box 201202
1410 8th Avenue
Helena, Montana 59620-1202

RE: Newlan Creek Reservoir FAS

September 2, 2011

Dear Dr. Baumler:

The Department of Fish, Wildlife and Parks (FWP) is proposing road and campsite improvements at the Newlan Creek Reservoir Fishing Access Site as indicated on the attached concept site plan. The proposed undertaking is located on lands administered by FWP at approximately T10N R6E Sections 11 and 12 in Meagher County.

The project area has been surveyed twice in the past (Aaberg 1979 and Passman 2000) and FWP believes that the APE, as defined in the previously submitted reports, adequately considers all reasonable potential effects to Historic Properties from the current proposed undertaking. It is our opinion that, due to the low likelihood of adverse impacts to cultural resources, the currently proposed project should be allowed to proceed as proposed.

We request your concurrence on the adequacy of the previously filed reports and the low likelihood of adverse impacts to cultural resources. Please feel free to contact Bardell Mangum at (406) 841-4012 or by e-mail at bmangum@mt.gov if you have any questions or concerns regarding the proposed project.

Sincerely,

CONCUR
NO PROPERTIES ON OR ELIGIBLE FOR NRHP APPEAR LIKELY TO EXIST WITHIN PROJECT IMPACT AREA
MONTANA SHPO
DATE 9/7/2011 SIGNED Stan Wilmoth

Bardell Mangum, RLA
Landscape Architect
Design & Construction Unit

Encl.: Concept Site Plan

cc: File 643.1

APPENDIX F

AGREEMENT BETWEEN
MEAGHER COUNTY NEWLAN CREEK WATER DISTRICT AND
MONTANA FISH, WILDLIFE AND PARKS

THIS AGREEMENT IS SUBJECT TO ARBITRATION IN ACCORDANCE WITH THE MONTANA UNIFORM ARBITRATION ACT, MCA §27-5-111, ET SEQ.

AGREEMENT

THIS AGREEMENT, made and entered into this 3rd day of September, 1996, between MEAGHER COUNTY NEWLAN CREEK WATER DISTRICT, a corporation duly organized under the County Water District Act of the State of Montana, (herein District) and the MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS (herein FWP);

Recitals

1. District owns a parcel of land in Meagher County, Montana, which was acquired for purposes of a multipurpose reservoir, including a recreation area, under the provisions of the Watershed Protection and Flood Prevention Act (Public Law 566--16 U.S.C.S. Sec. 1001, et.seq.). The parcel is more particularly described as Tracts 1, 2, 3, and 4 of Record Plat of Newlan Creek Dam, filed July 25, 1973, Plat Book 2, Page 37, records of Meagher County, which comprises portions of Section 1, 11, 12, and 14, Township 10 North, Range 6 East, and a portion of Section 6, Township 10 North, Range 7 East, M.P.M., (diagram of said tract is attached hereto as Exhibit A; and

2. The provisions of law under which the tract was acquired stipulates that recreational use and development of the area should available to the public generally and not limited to certain classes or organized groups, and

3. The Newlan Creek Reservoir site has recreational value and requires recreational development and management.

NOW, THEREFORE, in consideration of the following stipulations and agreements, it is

mutually agreed as follows:

1. District agrees that FWP will have the right of control and management of the Newlan Creek Reservoir site referred to above for recreational and public use purposes only, and that FWP may make and enforce rules necessary to regulate that public use. This use is subject to all restrictions and easements presently existing or of record or as may be created by District in the future; and subject, further, to the District's exclusive right to maintain, operate, and control the reservoir and reservoir levels (excepting only the reservoir will not be drained below the minimum recreation pool which will provide a minimum of approximately 75 surface acres); and subject, further, to the District's exclusive right to construct, maintain, repair, or improve all works of improvement, structures, roads, or authorize others to so do.

2. FWP agrees that it will be responsible for the management of public access and recreational uses and facilities, and that it will provide facilities comparable to those furnished at FWP access sites along the Smith River and within Meagher County; and FWP further agrees that it will designate parking and camping areas, boat launching sites, and recreational access roads, and use its best efforts in controlling the use of the same in accordance with good management practices. FWP retains the right to levy and collect reasonable fees or other charges for the use of such improvements and conveniences as may be provided. FWP designates its Region 4 Parks Supervisor as its representative for the purpose of negotiating the management and maintenance program.

3. The District reserves control over the dam, reservoir, and spillway facilities and water measurement and recording devices. The District may exclude the general public from such areas and the District, its assignees, and agents, shall at all times have reasonable ingress and egress on and to the Newlan Creek Reservoir site and access to the facilities described in this paragraph.

4. FWP agrees that the general public shall not be excluded from reasonable and proper

APPENDIX F (continued)

enjoyment of the natural or constructed recreational facilities provided in the area covered by this Agreement, and that it will make such rules as are authorized and necessary to regulate the public use of the Newlan Creek Reservoir site.

5. FWP shall indemnify and hold the District harmless from and against any and all claims, demands, or actions from damages to property or injury to persons or other damage to persons or entities arising out of, or resulting from, the performance of this Agreement or the results of this Agreement, provided such damage to property of injury to persons is due, in whole or in part, to the error, omission, or negligent act of FWP or any of its employees.

6. This shall be deemed an "agreement" under and within the meaning of §87-1-303, MCA, which provides that the Montana Fish, Wildlife and Parks Commission may adopt and enforce rules governing public recreational use of the lands covered by this agreement; subject, however, to the following conditions and agreements:

a) FWP will consult with the Board of Directors of Meagher County Newlan Creek Water district concerning the rules and regulations (or exceptions thereto) to be adopted and enforced, and give due consideration to local conditions and the Board's concerns and desires. The Department shall have authority to enforce these regulations on all District lands at Newlan Creek Reservior.

b) FWP will cause to be posted or displayed appropriate signs regarding rules or regulations adopted and to be enforced and also signs designating reservoir or dam works, facilities or areas designated by the District as "no trespass" areas and not open to public use.

c) Regulations, or exceptions to regulations, shall be made which will allow the District to (1) permit a limited number of ranchers trailing livestock to and from summer range or Forest Permits to rest, water and hold cattle overnight on the

recreational lands to be controlled during each spring and fall, with reasonable efforts to be made to keep livestock out of developed or campsite areas and (2), permit the District to lease for livestock pasture and water those District lands lying south of the reservoir area.

7. Notwithstanding other provisions of this agreement which may be unclear or to the contrary, it is specifically agreed as follows:

a. FWP shall be responsible for and shall perform at its cost generally accepted and recognized good weed control practices on all areas allowed for public use except for the area south of the reservoir area over which District is retaining the right to lease for livestock pasture. The Department or it's agent shall cooperate with and contact the Meagher County Weed Supervisor immediately prior to weed control activities on District lands.

b. FWP shall consult with District's Board of Directors concerning development of and improvement or facilities to be installed in public use areas and give consideration to the Board's suggestions or desires in that regard. FWP will provide to the District a master plan and projection of development and improvements proposed for the area. FWP shall also make periodic reports to the Board on development plans, regulations to be enforced and other matters of mutual concern as requested, but no less frequently than each year. Major development, improvement or facilities to be placed or installed on the premises at a cost or expenditure of more than $10,000.00 by FWP is subject to prior District Board approval.

8. The term of this Agreement shall be a period of 25 years, and will expire on December 1, 2023, unless the District and FWP mutually agree to terminate this agreement. The District and FWP each reserves the right to unilaterally and without cause to terminate this agreement by

60-day advance notice in writing to the other party, effective on the 5th, 10th, 15th or 20th anniversary date of this agreement. If this agreement is terminated by the unilateral action of the District prior to the expiration of the 25-year term provided in this paragraph, the District shall buy out the depreciated value of the FWP'S works or improvements on the Newlan Creek reservoir site, including but not limited to structures, roads and parking areas. If there is a disagreement between the parties as to that depreciated value, the parties agree to submit the matter to arbitration pursuant to section 27-5-111 et seq., Montana Codes Annotated. If this agreement is terminated by the unilateral action of the Department prior to the expiration of the 25-year term provided in this paragraph the Department shall have six months to remove any improvements, following which any remaining improvements shall become property of the District.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

MEAGHER COUNTY NEWLAN CREEK WATER DISTRICT

By _____
Ronald L. Jackson, President

Attest _____
Elsie Weitz, Secretary

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

By _____
Patrick J. Graham, Director

STATE OF MONTANA)
: ss.
COUNTY OF LEWIS AND CLARK)

This instrument was acknowledged before me on August 29th, 1996, by **RONALD L. JACKSON** and **ELSIE WEITZ**, as President and Secretary, respectively, of Meagher County Newlan Creek Water District.

(SEAL)

John V Fatla Jr.
Notary Public for the State of Montana
Residing at White Sulphur Springs
My Commission Expires Nov. 29, 1999

STATE OF MONTANA)
:ss.
COUNTY OF LEWIS AND CLARK)

This instrument was acknowledged before me on Sept. 3, 1996, by **PATRICK J. GRAHAM**, as Director of the Montana Department of Fish, Wildlife and Parks.

(SEAL)

Cindy E. Larsen
Notary Public for the State of Montana
Residing at ~~Feb 6, 1998~~ Helena
My Commission Expires July 6, 1998